



# FAIRFAX COUNTY

## BOARD OF ZONING APPEALS

**PUBLIC HEARING DATE:** May 23, 2018  
**TIME:** 9:00 A.M.

V I R G I N I A

**May 16, 2018**

### STAFF REPORT

**APPEAL APPLICATION A 2017-SU-026**

### SULLY DISTRICT

<b>APPELLANT:</b>	Gregg Caldwell
<b>LOCATION:</b>	14008 Willard Road Chantilly, Virginia 20151
<b>TAX MAP REF:</b>	44-2 ((8)) 31
<b>ZONING DISTRICTS:</b>	I-5
<b>SITE AREA:</b>	68,219 square feet
<b>NATURE OF APPEAL:</b>	Appeal of a determination that three (3) storage structures ("sea containers") and a sign are located on the property without site plan approval and that the required 25 foot wide transitional screening yard has not been maintained in accordance with the approved minor site plan, all on property in the I-5 District, in violation of Zoning Ordinance provisions. Further, the appellant appeals the direction to obtain building permits for a sign and awning on the property.

SDW

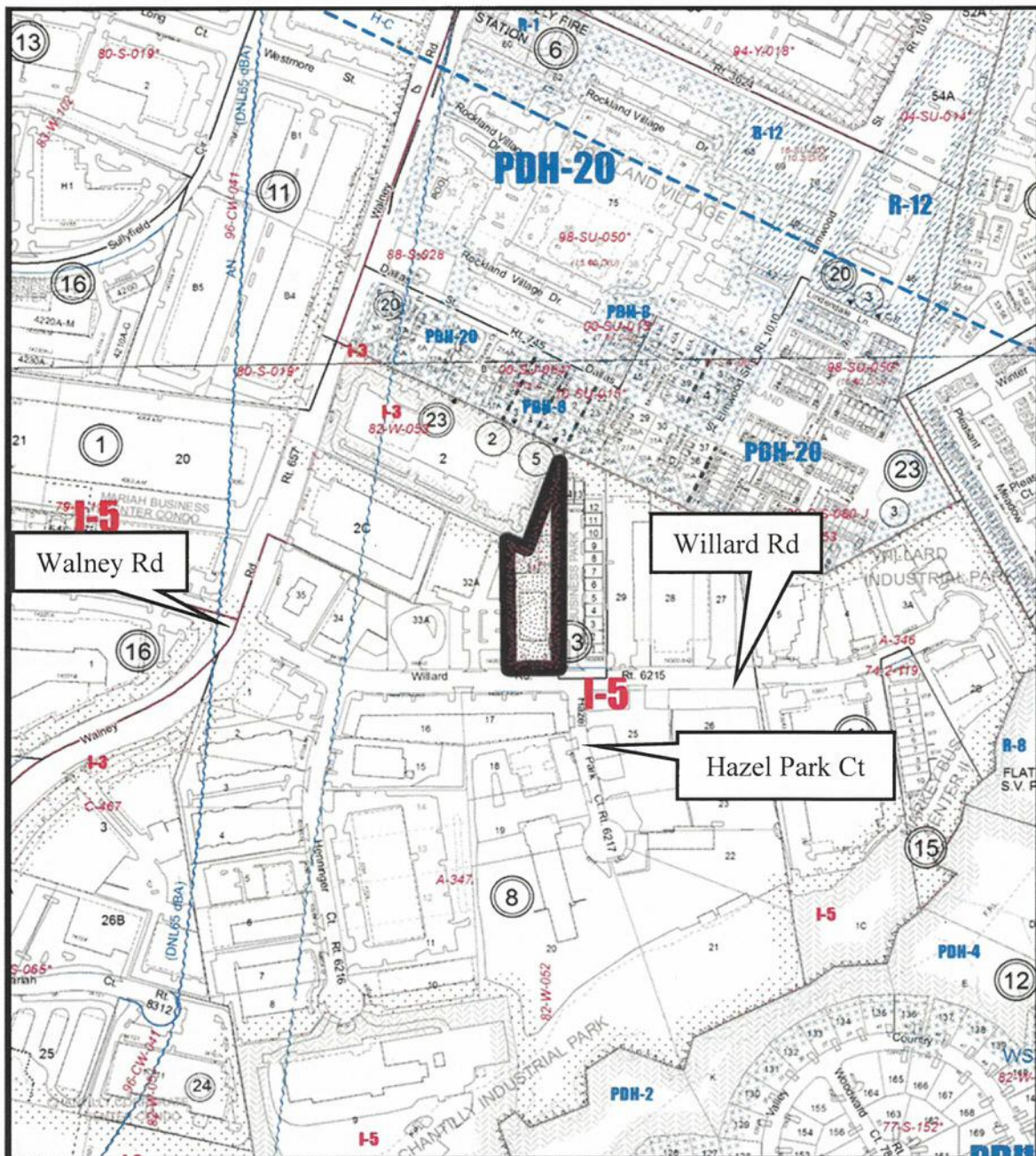
For information, contact the Zoning Administration Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 807, Fairfax, Virginia 22035-5505, 703-324-1314.



American with Disabilities Act (ADA): For special accommodations, call 703-324-1334 (TTY 711 Virginia Relay Center) 48 hours in advance of the meeting to make the necessary arrangements.

# APPEAL APPLICATION

**A 2017-SU-026 GREGG CALDWELL A 2017-SU-026** Appl. under Sect. 18-301 of the Zoning Ordinance. Appeal of a determination that three (3) storage structures ("sea containers") and a sign are located on the property without site plan approval and that the required 25 foot wide transitional screening yard has not been maintained in accordance with the approved minor site plan, all on property in the I-5 District, in violation of Zoning Ordinance provisions. Further, the appellant appeals the direction to obtain building permits for a sign and awning on the property. Located at 14008 Willard Road, Chantilly, 20151-2930 on approx. 68,219 sq. ft. of land zoned I-5. Sully District. Tax Map 44-2 ((8)) 31.





## DESCRIPTION OF APPEAL

**Appellant:**

Gregg Caldwell

**Property Description:**

The property that is subject to this appeal is located at 14008 Willard Road, in the Chantilly Industrial Park, on the north side of Willard Road approximately 50 feet west of its intersection with Hazel Park Court. The property consists of 68,219 square feet, and is zoned I-5, General Industrial District.

The property is currently developed with a one-story cinder block/concrete building, and a one-story metal block building. The property is currently occupied by G & C Fleet Services, LLC (operating as G & C Tire & Auto Service), and is owned by Lois S. Foley, William F. Foley, and David L. Foley.

**Appellant's Position:**

The appellant's application and basis for appeal are set forth in Attachment 1.

## ZONING ORDINANCE PROVISIONS

The provisions of the Zoning Ordinance that are germane to this appeal are listed below. The complete text of these provisions is enclosed as Attachment 2.

- Par. 1 of Sect. 13-106, Maintenance, Landscaping and Screening
- Par. 3A of Sect. 13-303, Transitional Screening Requirements
- Sect. 17-103, Uses Requiring a Site Plan or a Minor Site Plan
- Par. 16 of Sect. 17-104, Uses Exempt from a Site Plan or a Minor Site Plan
- Sect. 18-706, Permit Not To Validate Any Violation
- Sect. 20-300, Definitions: Storage Yard, Vehicle Major Service Establishment

## BACKGROUND

- As-Built Site Plan #3074-SP-001, entitled "Lot 31 Chantilly Industrial Park," was approved on March 4, 1980, for an approximately 10,000 square-foot (SF) building.

As-Built Site Plan #5805-WCP-001, entitled, "Lot 31 Chantilly Industrial Park," was approved on December 30, 1988, for an additional one-story, approximately 3,000-SF building on the property, for a total gross floor area of 13,210 SF, and a floor area ratio (FAR) of 0.19. This site plan depicts a 25-foot-wide transitional screening yard along the northern boundary of the property. Copies of the referenced site plans are provided in Attachment 3.

- The property was conveyed to Lois S. Foley, William F. Foley, and David L. Foley, the current property owners, by a deed recorded in the Fairfax County Land Records at Deed Book 23847, Page 1190, on October 29, 2014. Copies of the deed are provided in Attachment 4.
- The complaint was referred to the Department of Code Compliance (DCC) by the Fire Marshal's office following a routine Fire Marshal investigation on the property.
- A DCC Investigator inspected the site on September 5 and November 14, 2017, and the investigations revealed there were three storage structures ("sea containers") located on the property without the approval of a site plan. The investigations also revealed the appellant was not maintaining the required 25-foot-wide transitional screening area along the northeastern boundary of the property, and that an awning and sign had been installed on the property without building permit approval.
- A Notice of Violation was issued to the property owners, Lois S. Foley, William F. Foley, and David L. Foley, as well as G&C Fleet Services, L.L.C., the tenant on the property, in the care of Gregg Caldwell, the appellant, on December 1, 2017, for being in violation of Sect. 13-106 of the Zoning Ordinance by not maintaining the required transitional screening area on the property, and Sect. 17-103 for establishing structures on the property without the approval of a site plan.
- The appellant, who owns G & C Fleet Services, L.L.C., the tenant, filed the appeal on December 28, 2017; it was accepted on January 12, 2018 and is scheduled for public hearing on April 18, 2018.
- On January 5, 2018, a Corrective Work Order was issued to the property owners, Lois S. Foley, William F. Foley, and David L. Foley, as well as G&C Fleet Services, L.L.C., the tenant on the property, in the care of Gregg Caldwell, the appellant, for a violation of the Virginia Uniform Statewide Building Code for installing a sign and building awning without building permit approval, which were also referenced in the NOV above as part of bringing the property into compliance. The sign has since been removed from the property, which resolved that violation. The building awning is not a Zoning Ordinance violation and therefore no determination regarding the awning was made in the NOV.
- At the appellant's request and in consultation with the County Executive's Office, the appellant met with County staff from multiple land development agencies to discuss the procedures for bringing the property into compliance, including the following meetings:

**January 31, 2018** – with representatives from the Office of the County Executive, Department of Planning & Zoning, Land Development Services, and Department of Code Compliance.

**February 22, 2018** – with representatives from the Office of the County Executive, Urban Forest Management Division, Site Development and Inspections Division (LDS), and Department of Code Compliance.

Staff has outlined a feasible path for the appellant to bring the property into compliance with the Zoning Ordinance, but the appellant has failed to take any action to do so.



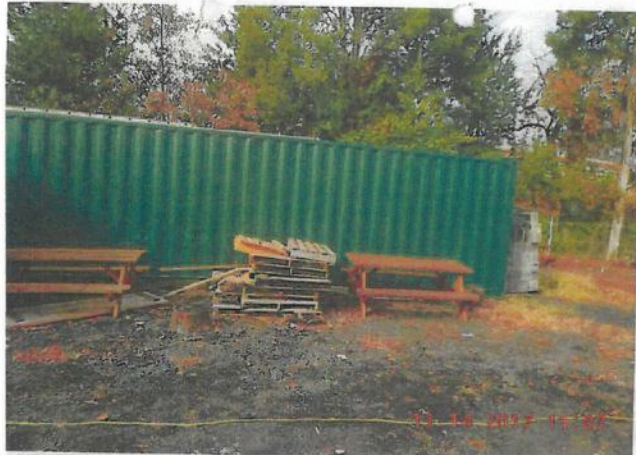
## SUMMARY OF THE APPELLANT'S POSITION

In the appeal application, the appellant notes that the complaint that generated the notice of violation was filed by a Fairfax County employee, as opposed to a County resident. The appellant argues that what constitutes “storage” and “storage structures” is a subjective interpretation, and that storage is not required to be assigned a location on a site plan. In addition, the appellant contends that because of the subjective nature of interpretations, outcomes can vary substantially among properties, and argues that the practice of conducting inspections and enforcing regulations that are not based on citizen complaint can be discriminatory and financially burdensome for small businesses.

## ZONING ADMINISTRATOR'S POSITION

This appeal has two main issues: the location of the sea containers for storage on the property without site plan approval and the removal of the required 25-foot-wide transitional screening yard. The existing vehicle major service establishment is permitted by-right in the I-5 District.

In response to a referral from the Fire Marshal's Office to DCC as a result of a routine inspection, inspections of the subject property were conducted on September 5 and November 14, 2017. During those inspections, three sea containers were observed on the property being used for the storage of equipment, machinery, and other items.



*Site Inspection photos – November 14, 2017*

The inspector determined that the three sea containers are storage structures and were established on the property without the approval of a site plan. There is precedence both through previous Zoning Administrator determinations and through appeals that the addition of structures such as sea containers, sheds, or the trailer of a tractor-trailer used for storage constitutes the addition of floor area and is included in FAR calculations. The addition of these three storage containers adds additional floor area to the property that was not shown on the approved site plan.

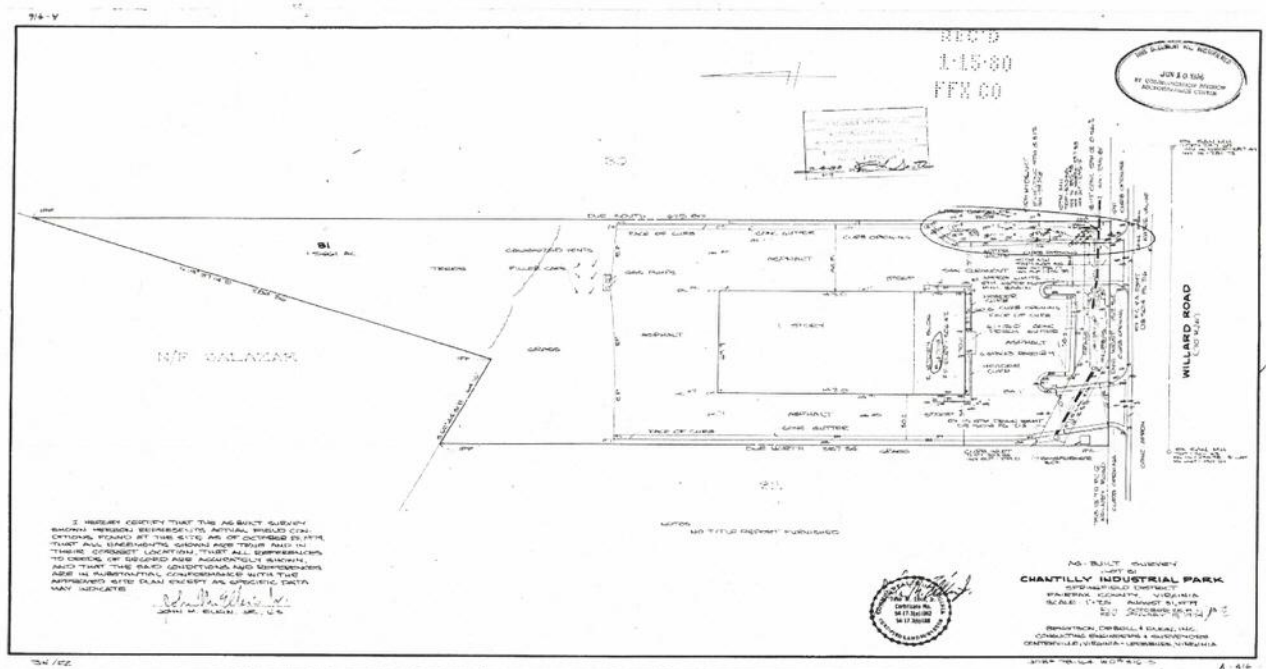
Sect. 17-103 of the Zoning Ordinance states in pertinent part that:

*Prior to construction and/or establishment, the following uses, including modifications or alterations to existing uses, shall require site plan or minor site plan approval unless exempt under Sect. 104 below:*

....

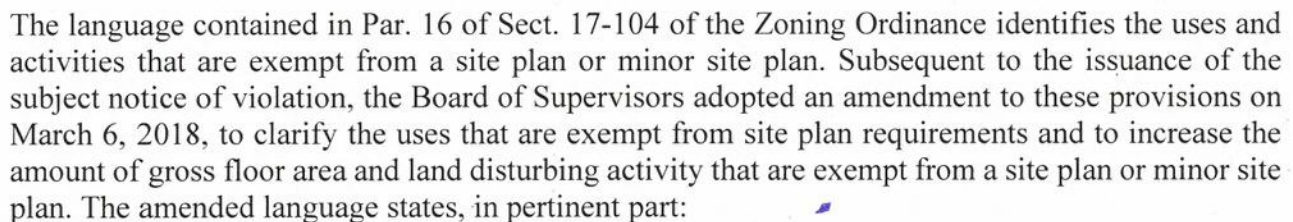
3. All permitted uses in the I districts.

Research on the property revealed that an As-Built Site Plan (#3074-SP-001) was approved on March 4, 1980, and showed an approximately 10,000-SF building.



Research further revealed that on December 30, 1988, As-Built Site Plan #5805-WCP-001 was approved for an additional one-story, approximately 3,000-SF building, for a total gross floor area of 13,210 SF on the property. This site plan also depicts the required 25-foot-wide transitional screening yard along the northeastern boundary of the property. The storage containers are not shown on this or any previously approved site plans.





16. Antennas and satellite earth stations; accessory outdoor storage and display; and additions and alterations to existing uses and site modifications which may include, but are not limited to, changes or additions to decks, patios, concrete slabs, vestibules, loading docks, mechanical equipment, **storage structures**, generators, walkways, landscaping, paving, and light poles/lighting fixtures. **All such uses or activities must not:**

- A. **Exceed 500 square feet of gross floor area** or 2500 square feet of disturbed land area as defined in Chapter 104 of The Code;
- B. **Exceed 750 square feet of gross floor area** or 2500 square feet of disturbed land area as defined in Chapter 104 of The Code for additions and alterations to provide an accessibility improvement;
- C. **Exceed the maximum floor area ratio of the district in which located** or the maximum floor area ratio permitted by any proffered or development conditions;
- D. **Reduce required** landscaping, open space, parking, travel aisles or driveways, and **transitional screening** or barriers; and
- E. **Necessitate the installation or relocation of storm sewer, public water or public sewer.**



(Emphasis added.) In this case, even with the recently adopted Zoning Ordinance amendment that increased the gross floor area that is exempt from a site plan or minor site plan from 250 to 500 SF, the total combined gross floor area of the three storage containers exceeds the 500-square-foot limitation contained in Par. A above. In addition, two of the storage containers are located within an area previously identified as the required 25-foot-wide transitional screening yard, and they therefore reduce the required transitional screening on the property, in conflict with Par. D above. Therefore, site plan or minor site plan approval is required to keep all three sea containers on the property. The appellant has not pursued such approval, and the containers currently remain on the site in violation of Sect. 17-103 of the Ordinance. As noted above, staff has met with the appellant on two occasions to outline the steps necessary to bring the property into compliance.

As noted, the approved As-Built site plan for the addition approved in 1988 required a 25-foot-wide transitional screening yard along the northern boundary of the property. The illustrations below from Fairfax County Geographic Exploration & Mapping (GEM) shows the northern boundary of the property and highlights the approximately 25-foot-wide transitional screening yard along that boundary. The illustrations show that as observed during the site inspections on September 5 and November 14, 2017, it appears that hard surfaces, vehicle parking, and structures including two of the sea containers have encroached into the transitional screening yard.



*Fairfax County GEM Mapping*



Article 13 of the Zoning Ordinance includes a “Transitional Screening and Barrier Matrix,” which shows that “Transitional Screening 1” is required to be provided along the boundary between the vehicle major service establishment and the adjacent public use that is most similar to a congregate living facility. Par. 3A of Sect. 13-303 of the Zoning Ordinance (see Attachment 2) identifies the type of plantings and vegetation that are required within the required 25-foot-wide transitional screening area; including a mixture of trees consisting of at least seventy percent evergreen trees and consisting of no more than thirty-five percent of any single species of evergreen or deciduous tree; and a mixture of predominately medium evergreen shrubs.

Sect. 13-106 of the Zoning Ordinance (see Attachment 2) provides the standards for the maintenance of any required landscaping or screening. It states that the owner, or his agent, is responsible for the maintenance, repair, and replacement of all landscaping materials as may be required by Article 13 of the Zoning Ordinance. It further states that the removal or replacement of any landscaping depicted on an approved site plan requires approval by the Director of Land Development Services (LDS). In the case of this property, the transitional screening yard has not been maintained as required by Article 13, and plantings have been removed without the approval of the Director of LDS. The NOV advised G & C Fleet Services, L.L.C. to submit a transitional screening plan to the Urban Forest Management Division (UFMD) to restore the original required transitional screening, or to obtain a waiver/modification of the required transitional screening from UFMD. However, G & C Fleet Services, L.L.C. has not taken any action at this time, and the failure to maintain the transitional screening area continues to be a violation of Article 13 of the Ordinance.

On September 18, 2017, Non-Residential Use Permit (Non-RUP) #172610182 was issued to G & C Fleet Services L.L.C. for a 4,500-SF Storage Yard on the property. However, G & C Fleet Services L.L.C. did not submit a site plan with its Non-RUP application. As noted earlier in this report, Sect. 17-103 of the Zoning Ordinance requires site plan approval prior to the establishment of any permitted uses in the I District. The appellant stated to staff that this Non-RUP was requested in an attempt to resolve the violation. In discussions with the appellant, he acknowledged that he was “very vague” with the information he provided to County staff when applying for the Non-RUP. Specifically, he informed staff that the storage would be for a single vehicle, and as such the appellant was told that a site plan would not be required.

Sect. 18-706 of the Zoning Ordinance, however, provides that “(n)o Residential or Non-Residential Use Permit shall be deemed to validate any violation of any provision of any law or ordinance.” Therefore, because a site plan has not been submitted and approved, the storage yard has not been lawfully established, regardless of the Non-RUP.

The appellant has also appealed the direction to obtain building permits for a sign and building awning on the property. The sign in question has been removed from the property, thereby resolving that violation. In addition, the building awning is a violation of the Virginia Uniform Statewide Building Code, and appeals related to the Virginia Uniform Statewide Building Code are subject to the Board of Building and Fire Prevention Code and are not under the purview of the Board of Zoning Appeals (BZA).

**CONCLUSION**

In conclusion, it is clear from inspections of the property that G & C Fleet Services, L.L.C. has established three storage structures on the property without the approval of a site plan or minor site plan, which violates Sect.17-103 of the Zoning Ordinance. In addition, G & C Fleet Services, L.L.C. has not maintained the required 25-foot-wide transitional screening yard along the northeastern boundary of the property and has expanded the use into the minimum required transitional screening area. County staff has had several meetings with the appellant to discuss the appropriate steps and processes required to bring the property into compliance with the Zoning Ordinance, but the appellant has failed to take any action to address the violations. Staff recommends that the BZA uphold the determination of the Zoning Administrator as set forth in the Notice of Violation dated November 14, 2017.

**ATTACHMENTS:**

1. Appellant's Application and Basis for Appeal & Notice of Violation
2. Applicable Zoning Ordinance Provisions
3. Site Plans – Lot 31, Chantilly Industrial Park
4. Deed – 14008 Willard Road
5. Site Inspection Photographs





COMMONWEALTH OF VIRGINIA  
COUNTY OF FAIRFAX  
APPLICATION FOR APPEAL

Please type or  
Print in Black Ink



APPLICATION NO. A-2017-SU-026  
(Assigned by Staff)

NAME OF APPELLANT: Gregg Caldwell

**NATURE OF THE APPEAL:**

A citizen complaint was not filed. Current storage containers are allowed by zoning and non-residential use permit.

Blighted ash trees in 25 foot transitional area does not require an engineered design.

Approved site plan does not specify types of trees.

Carport/awning under 250 square feet does not require a permit.

Signage was not part of the original notice of violation.

**DATE OF ORDER, REQUIREMENT, DECISION, DETERMINATION OR NOTICE OF VIOLATION WHICH IS SUBJECT TO THE APPEAL** December 1st, 2017

**HOW IS THE APPELLANT AN AGGRIEVED PERSON?:**

The Department of Code Compliance has placed code violations on my small business that are not being enforced equally throughout the county. This subjective process is a substantial financial burden for a small business.

**IF APPEAL RELATES TO A SPECIFIC PROPERTY, PROVIDE THE FOLLOWING INFORMATION:**

**POSTAL ADDRESS OF PROPERTY:** 14008 Willard Road, Chantilly VA, 20151

**TAX MAP DESCRIPTION:** 0442-08-0031

Gregg Caldwell

Type or Print Name of Appellant or Agent

[Signature]  
Signature of Appellant or Agent

14433 North Slope Street, Centreville Va, 20120

Address

703-988-0626

703-263-2474

571-205-8508

Telephone No: Home

Work

Cell

Please type or print name, address, and phone number of contact person if different from above:

**DO NOT WRITE IN THIS SPACE**

Subdivision Name: \_\_\_\_\_

Total Area (Acres/Square Feet): 68,219 SQ. FT.

Present Zoning: I-5

Supervisor District: Sully

Date application received: DEC 28, 2017

Application Fee Paid: \$ 600

Date application accepted: JAN 12, 2018

## **Statement Of Requested Information**

**Notice Of Violation Case # 201705514 SR# 142572**

**Date Of Violation December 1, 2017**

### **Grounds For Appeal**

Complaints were filed by a Fairfax County employee. This department is complaint driven via county residents. The Fairfax County Fire Inspector's four man "Life Safety" task force has been instructed to focus on a particular segment of businesses within the county. This is in collaboration with the Department Of Code Compliance. I have a 4,500 square foot storage non residential use permit for this property. Depending on a subjective interpretation of storage and structures. Storage is not required to be assigned a location on the site plan. This has been verified by comparing this site plan with other Fairfax County owned properties. More information is available upon request.

### **Specifically how the appellant is an aggrieved person.**

Due to the investigator's subjectiveness, varying interpretation, and varying range of experience in understanding zoning regulations, the outcomes can vary substantially. Combine this with a biased concentration on certain businesses within the county, this is a very discriminatory and financially burdensome practice for small business owners. This notice of violation is placing an undue financial burden that will prevent growth of my business and has stopped all hiring of new employees until this matter is resolved. If unresolved in a mutual and reduced financial burden, G&C Tire and Auto Service will be forced to cut more local jobs. More information is available upon request.

### **Additional Supportive Data**

I would prefer to discuss this in person with the appeals board due to my concerns of additional repercussions from zoning or fire inspectors.





## County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

### NOTICE OF VIOLATION Fairfax County Zoning Ordinance

**DATE OF ISSUANCE:** December 1, 2017

**METHOD OF SERVICE:** OFFICE OF THE SHERIFF

**LEGAL NOTICE ISSUED TO:** G & C Fleet Services L.L.C.  
c/o Greg Caldwell, Business Owner

**ADDRESS:** 14008 Willard Road  
Chantilly, Virginia 20151

**LOCATION OF VIOLATION:** 14008 Willard Road  
Chantilly, Virginia 20151-2930

**TAX MAP REF:** 0442 08 0031

**ZONING DISTRICT:** I- 5

**CASE #:** 201705514 **SR #:** 142572

**ISSUING INVESTIGATOR:** Timothy Nicholson, (703)324-2356

#### POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§13.106.1	\$ 200.00	\$ 500.00
	§17.103	\$ 200.00	\$ 500.00
<b>TOTAL:</b>		<b>\$ 400.00</b>	<b>\$ 1000.00</b>

Dear Responsible Party:

Inspections of the above referenced property on November 14, 2017, and September 5, 2017, revealed the following violation(s) of the Fairfax County Zoning Ordinance:

**§ 17-103 Site Plan**

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**Department of Code Compliance**  
12055 Government Center Parkway, Suite 1016  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 Fax 703-653-9459 TTY 711  
[www.fairfaxcounty.gov/code](http://www.fairfaxcounty.gov/code)

G & C Fleet Services L.L.C  
c/o Greg Caldwell, Business Owner  
December 1, 2017  
SR 142572  
Page 2

Research of the subject address revealed that 2 (two) Non-residential Use Permits (Non-Rup) have been issued to the property; Non-Rup #A-2003-1528 for a Vehicle Major Service Establishment and Non-Rup #172610182 for a Storage Yard. Approved Minor Site Plan 17719-MSP-001 prepared by Brewer, Sinclair & Associates, P.C., dated June 1984, shows 2 (two) structures and a 25 (twenty-five) foot transitional screening strip on the north-eastern part of the property.

The inspections determined that 3 (sea container style) storage structures have been placed on the lot, a sign has been erected at the front entrance of the property, and the 25 (twenty-five) foot transitional screening strip has not been maintained. A review of Fairfax County records revealed that no site plan has been approved to permit this. The establishment or expansion of this use on this property is in violation of Sect. 17-103 of the Zoning Ordinance which states:

Prior to construction and/or establishment, the following uses, including modifications or alterations to existing uses, shall require site plan or minor site plan approval unless exempt under Sect. 104 below:

1. All permitted uses in the R districts.
2. All permitted uses in the C districts.
3. All permitted uses in the I districts.
4. All permitted uses in the P districts.
5. Those special permit uses which are subject to a site plan as set forth in Article 8.
6. Those special exception uses which are subject to a site plan as set forth in Article 9.

You are hereby directed to clear this violation within thirty (30) days after of the date of this notice. Compliance must be accomplished by:

- Removing the 3 (sea container style) storage structures, and the sign from the property; and submitting a transitional screening plan to the Urban Forester of Fairfax County to restore the original required transitional screening; or
- Submitting to and obtaining approval from the Department of Land Development Services (LDS) for a new site plan to reflect the 3 (sea container style) storage structures, and the sign on the property; and
- Applying for and obtaining a building permit for the awning and sign; and;
- Applying for and ultimately obtaining a waiver/modification of transitional screening for the property from the Urban Forester of Fairfax County.



G & C Fleet Services L.L.C  
c/o Greg Caldwell, Business Owner  
December 1, 2017  
SR 142572  
Page 3

A follow-up inspection will be made at the expiration of this time period. If you have failed to comply with this notice at that time, this office will seek legal remedies to gain compliance with the Zoning Ordinance.

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**§ 13-106 (1) Transitional Screening Maintenance**

The inspection has determined that the transitional screening on the north-eastern side of the property as shown on the approved Minor Site Plan 17719-MSP-001 prepared by Brewer, Sinclair & Associates, P.C., dated June 1984, has not been maintained as required in Article 13 of the Fairfax County Zoning Ordinance. Per Par. 3 of Sect. 13-303 of the Zoning Ordinance, transitional screening shall be provided pursuant to Chapter 12 of the Fairfax County Public Facilities Manual and per the approved site plan. The transitional screening must comply with the requirements for Transitional Screening 1, as defined in Par. 3A of Sect. 13-303 of the Fairfax County Zoning Ordinance, which provides:

**§ 13-303 (3A) Transitional Screening Requirements**

Transitional Screening 1 shall consist of an unbroken strip of open space a minimum of twenty-five (25) feet wide and planted with all of the following:

- 1) A mixture of large and medium evergreen trees and large deciduous trees that achieve a minimum ten (10) year tree canopy of seventy-five (75) percent or greater;
- 2) A mixture of trees consisting of at least seventy (70) percent evergreen trees, and consisting of no more than thirty-five (35) percent of any single species of evergreen or deciduous tree; and
- 3) A mixture of predominately medium evergreen shrubs at a rate of three (3) shrubs for every ten (10) linear feet for the length of the transition yard area. The shrubs shall generally be located away from the barrier and staggered along the outer boundary of the transition yard.

Therefore, you are not in compliance with Par. 3(A) of Sect. 13-303 of the Zoning Ordinance and are in violation of Par. 1 of Sect. 13-106 of the Fairfax County Zoning Ordinance which states:

**§ 13-106 (1) Maintenance**

The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers as may be required by the provisions of this Article.

You are, hereby, directed to clear this violation within thirty (30) days of the date of this Notice.

G & C Fleet Services L.L.C  
c/o Greg Caldwell, Business Owner  
December 1, 2017  
SR 142572  
Page 4

Compliance must be accomplished by the following:

- Apply for and ultimately obtaining a waiver/modification of transactional screening for the property from the Urban Forester of Fairfax County; or
- Submitting a transitional screening plan to the Urban Forester of Fairfax County to restore the original required transitional screening.

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A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

Civil penalties entered by the General District Court shall be paid to the Office of the County Attorney. Investigators may not accept any payments, including those associated with fines and fees.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division  
12055 Government Center Parkway, Suite 807  
Fairfax, Virginia 22035  
Office: (703)324-1314

Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-2356

LEGAL NOTICE ISSUED BY:



G & C Fleet Services L.L.C  
c/o Greg Caldwell, Business Owner  
December 1, 2017  
SR 142572  
Page 5

Signature

Timothy Nicholson  
Code Compliance Investigator  
(703)324-2356  
Timothy.Nicholson2@fairfaxcounty.gov



## County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

### NOTICE OF VIOLATION Fairfax County Zoning Ordinance

**DATE OF ISSUANCE:** December 1, 2017

**METHOD OF SERVICE:** CERTIFIED MAIL # 7016 2140 0001 1167 5143

**LEGAL NOTICE ISSUED TO:** Lois S Foley  
William F Foley  
David L Foley

**ADDRESS:** 819 Ruffner's Ferry Road  
Luray, Virginia 22835

**LOCATION OF VIOLATION:** 14008 Willard Road  
Chantilly, Virginia 20151-2930

**TAX MAP REF:** 0442 08 0031

**ZONING DISTRICT:** I- 5

**CASE #:** 201705514 **SR #:** 142572

**ISSUING INVESTIGATOR:** Timothy Nicholson, (703)324-2356

#### POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

<b>§ 18-903(1):</b>	<b>Zoning Violation</b>	<b>First Offense</b>	<b>Each Subsequent Offense</b>
	§13.106.1	\$ 200.00	\$ 500.00
	§17.103	\$ 200.00	\$ 500.00
	<b>TOTAL:</b>	<b>\$ 400.00</b>	<b>\$ 1000.00</b>

Dear Responsible Party:

Inspections of the above referenced property on November 14, 2017, and September 5, 2017, revealed the following violation(s) of the Fairfax County Zoning Ordinance:

**§ 17-103 Site Plan**

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Department of Code Compliance  
12055 Government Center Parkway, Suite 1016  
Fairfax, Virginia 22035-5508  
Phone 703-324-1300 Fax 703-653-9459 TTY 711  
[www.fairfaxcounty.gov/code](http://www.fairfaxcounty.gov/code)



Lois S Foley  
William F Foley  
David L Foley  
December 1, 2017  
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Research of the subject address revealed that 2 (two) Non-residential Use Permits (Non-Rup) have been issued to the property; Non-Rup #A-2003-1528 for a Vehicle Major Service Establishment and Non-Rup #172610182 for a Storage Yard. Approved Minor Site Plan 17719-MSP-001 prepared by Brewer, Sinclair & Associates, P.C., dated June 1984, shows 2 (two) structures and a 25 (twenty-five) foot transitional screening strip on the north-eastern part of the property.

The inspections determined that 3 (sea container style) storage structures have been placed on the lot, a sign has been erected at the front entrance of the property, and the 25 (twenty-five) foot transitional screening strip has not been maintained. A review of Fairfax County records revealed that no site plan has been approved to permit this. The establishment or expansion of this use on this property is in violation of Sect. 17-103 of the Zoning Ordinance which states:

Prior to construction and/or establishment, the following uses, including modifications or alterations to existing uses, shall require site plan or minor site plan approval unless exempt under Sect. 104 below:

1. All permitted uses in the R districts.
2. All permitted uses in the C districts.
3. All permitted uses in the I districts.
4. All permitted uses in the P districts.
5. Those special permit uses which are subject to a site plan as set forth in Article 8.
6. Those special exception uses which are subject to a site plan as set forth in Article 9.

You are hereby directed to clear this violation within thirty (30) days after of the date of this notice. Compliance must be accomplished by:

- Removing the 3 (sea container style) storage structures, and the sign from the property; and submitting a transitional screening plan to the Urban Forester of Fairfax County to restore the original required transitional screening; or
- Submitting to and obtaining approval from the Department of Land Development Services (LDS) for a new site plan to reflect the 3 (sea container style) storage structures, and the sign on the property; and
- Applying for and obtaining a building permit for the awning and sign; and;
- Applying for and ultimately obtaining a waiver/modification of transitional screening for the property from the Urban Forester of Fairfax County.

Lois S Foley  
William F Foley  
David L Foley  
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A follow-up inspection will be made at the expiration of this time period. If you have failed to comply with this notice at that time, this office will seek legal remedies to gain compliance with the Zoning Ordinance.

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#### **§ 13-106 (1) Transitional Screening Maintenance**

The inspection has determined that the transitional screening on the north-eastern side of the property as shown on the approved Minor Site Plan 17719-MSP-001 prepared by Brewer, Sinclair & Associates, P.C., dated June 1984, has not been maintained as required in Article 13 of the Fairfax County Zoning Ordinance. Per Par. 3 of Sect. 13-303 of the Zoning Ordinance, transitional screening shall be provided pursuant to Chapter 12 of the Fairfax County Public Facilities Manual and per the approved site plan. The transitional screening must comply with the requirements for Transitional Screening 1, as defined in Par. 3A of Sect. 13-303 of the Fairfax County Zoning Ordinance, which provides:

#### **§ 13-303 (3A) Transitional Screening Requirements**

Transitional Screening 1 shall consist of an unbroken strip of open space a minimum of twenty-five (25) feet wide and planted with all of the following:

- 1) A mixture of large and medium evergreen trees and large deciduous trees that achieve a minimum ten (10) year tree canopy of seventy-five (75) percent or greater;
- 2) A mixture of trees consisting of at least seventy (70) percent evergreen trees, and consisting of no more than thirty-five (35) percent of any single species of evergreen or deciduous tree; and
- 3) A mixture of predominately medium evergreen shrubs at a rate of three (3) shrubs for every ten (10) linear feet for the length of the transition yard area. The shrubs shall generally be located away from the barrier and staggered along the outer boundary of the transition yard.

Therefore, you are not in compliance with Par. 3(A) of Sect. 13-303 of the Zoning Ordinance and are in violation of Par. 1 of Sect. 13-106 of the Fairfax County Zoning Ordinance which states:

#### **§ 13-106 (1) Maintenance**

The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers as may be required by the provisions of this Article.



Lois S Foley  
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You are, hereby, directed to clear this violation within thirty (30) days of the date of this Notice. Compliance must be accomplished by the following:

- Apply for and ultimately obtaining a waiver/modification of transactional screening for the property from the Urban Forester of Fairfax County; or
- Submitting a transitional screening plan to the Urban Forester of Fairfax County to restore the original required transitional screening.

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A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

Civil penalties entered by the General District Court shall be paid to the Office of the County Attorney. Investigators may not accept any payments, including those associated with fines and fees.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division  
12055 Government Center Parkway, Suite 807  
Fairfax, Virginia 22035  
Office: (703)324-1314  
Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-2356

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William F Foley  
David L Foley  
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LEGAL NOTICE ISSUED BY:

A handwritten signature in black ink, appearing to read 'Timothy Nicholson', written over a horizontal line.

Signature

Timothy Nicholson  
Code Compliance Investigator  
(703)324-2356  
Timothy.Nicholson2@fairfaxcounty.gov



**ZONING ORDINANCE PROVISIONS**

**PART 1 13-100 GENERAL PROVISIONS (LANDSCAPING AND SCREENING)**

**13-106 Maintenance**

1. The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers as may be required by the provisions of this Article.
2. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary, due to poor health or unsafe conditions, and kept free of refuse and debris.
3. Fences and walls shall be maintained in good repair. Openings within the barriers may be required by the Director for accessibility to an area for necessary maintenance.
4. When tree conservation required by Sect. 401 below is provided on individual lots in residential districts, the homeowner, subsequent to Residential Use Permit issuance, shall not be precluded from adding, removing or relocating such landscaping.
5. All landscaping shall be installed and maintained to be in substantial conformance with any proffered conditions or with any approved conceptual/final development plan, general development plan, development plan, PRC plan, special exception, special permit or variance as determined by the Zoning Administrator. Any removal or replacement of such required landscaping shall require approval by the Director after coordination with the Zoning Administrator.
6. The removal or replacement of any landscaping depicted on an approved site plan that is not subject to any of the approvals listed in Par. 5 above shall require Director approval.
7. Any landscaping required by Paragraphs 5 and 6 above that is removed or replaced without the written permission of the Director shall be replaced at the owner's expense with new landscaping of the appropriate species that is equal to or larger in caliper, height, or canopy proportions to the required landscaping that was removed. If the required landscaping that is removed has been planted for more than ten (10) years, the replacement plantings shall be in accordance with the Public Facilities Manual and shall provide a ten (10) year canopy at the time of planting, as determined by the Director.

**PART 3 13-300 TRANSITIONAL SCREENING AND BARRIERS**

**13-303 Transitional Screening Requirements**

1. Barriers shall be generally located between the required transitional screening and the use or activity in connection with which they are required where they will most adequately screen such activities from the existing or proposed first floor level of adjoining development as determined by the Director. Any bracing, supports or posts shall be on the side of the barrier facing the use which must provide the barrier.
2. Where options are presented on the matrix for a type of barrier, such option shall be available to the developer unless otherwise qualified.
3. There shall be three (3) different transitional screening requirements as identified on the matrix, which shall be provided pursuant to Chapter 12 of the Public Facilities Manual and as follows:
  - A. Transitional Screening 1 shall consist of an unbroken strip of open space a minimum of twenty-five (25) feet wide and planted with all of the following:
    - (1) A mixture of large and medium evergreen trees and large deciduous trees that achieve a minimum ten (10) year tree canopy of seventy-five (75) percent or greater;
    - (2) A mixture of trees consisting of at least seventy (70) percent evergreen trees, and consisting of no more than thirty-five (35) percent of any single species of evergreen or deciduous tree; and
    - (3) A mixture of predominately medium evergreen shrubs at a rate of three (3) shrubs for every ten (10) linear feet for the length of the transition yard area. The shrubs shall generally be located away from the barrier and staggered along the outer boundary of the transition yard.
  - B. Transitional Screening 2 shall consist of an unbroken strip of open space a minimum of thirty-five (35) feet wide and planted with all of the following:
    - (1) A mixture of large and medium evergreen trees that achieves a minimum ten (10) year tree canopy of seventy-five (75) percent or greater;
    - (2) A mixture of trees consisting of at least seventy (70) percent evergreen trees, and consisting of no more than thirty-five (35) percent of any single species of evergreen or deciduous tree; and
    - (3) A mixture of predominately medium evergreen shrubs at a rate of three (3) shrubs for every ten (10) linear feet for the length of the transition yard area. The shrubs shall generally be located away from the barrier and staggered along the outer boundary of the transition yard.
  - C. Transitional Screening 3 shall consist of an unbroken strip of open space a minimum of fifty (50) feet wide planted with all of the following:



- (1) A mixture of large and medium evergreen trees and large deciduous trees that achieves a minimum ten (10) year tree canopy of seventy-five (75) percent or greater;
- (2) A mixture of trees consisting of at least seventy (70) percent evergreen trees, and consisting of no more than thirty-five (35) percent of any single species of evergreen or deciduous tree; and
- (3) A mixture of predominately medium evergreen shrubs at a rate of three (3) shrubs for every ten (10) linear feet for the length of the transition yard area. The shrubs shall generally be located away from the barrier and staggered along the outer boundary of the transition yard.

**PART 1 17-100 GENERAL REQUIREMENTS**

**17-103 Uses Requiring a Site Plan or a Minor Site Plan**

Prior to construction and/or establishment, the following uses, including modifications or alterations to existing uses, shall require site plan or minor site plan approval unless exempt under Sect. 104 below:

1. All permitted uses in the R districts.
2. All permitted uses in the C districts
3. All permitted uses in the I districts.
4. All permitted uses in the P districts.
5. Those special permit uses which are subject to a site plan as set forth in Article 8.
6. Those special exception uses which are subject to a site plan as set forth in Article 9.

Notwithstanding the above, the Director may approve a partial Building Permit prior to site plan or minor site plan approval in accordance with the provisions of the Virginia Uniform Statewide Building Code, provided, however, that such approval shall not guarantee the approval of a site plan or subsequent Building Permits.

**17-104 Uses Exempt from a Site Plan or a Minor Site Plan**

16. Antennas and satellite earth stations; accessory outdoor storage and display; and additions and alterations to existing uses and site modifications which may include, but are not limited to, changes or additions to decks, patios, concrete slabs, vestibules, loading docks, mechanical equipment, storage structures, generators, walkways, landscaping, paving, and light poles/lighting fixtures. All such uses or activities must not:

- A. Exceed 500 square feet of gross floor area or 2500 square feet of disturbed land area as defined in Chapter 104 of The Code;
- B. Exceed 750 square feet of gross floor area or 2500 square feet of disturbed land area as defined in Chapter 104 of The Code for additions and alterations to provide an accessibility improvement;
- C. Exceed the maximum floor area ratio of the district in which located or the maximum floor area ratio permitted by any proffered or development conditions;
- D. Reduce required landscaping, open space, parking, travel aisles or driveways, and transitional screening or barriers; and
- E. Necessitate the installation or relocation of storm sewer, public water or public sewer.

Any additions or alterations to existing uses that increase the number of required off-street parking spaces requires the submission of a parking tabulation in accordance with Par. 8 above, and any changes to the parking layout requires the submission of a parking redesignation plan in accordance with Par. 9 above.

#### **PART 7 18-700 RESIDENTIAL AND NON-RESIDENTIAL USE PERMITS**

##### **18-706 Permit Not To Validate Any Violation**

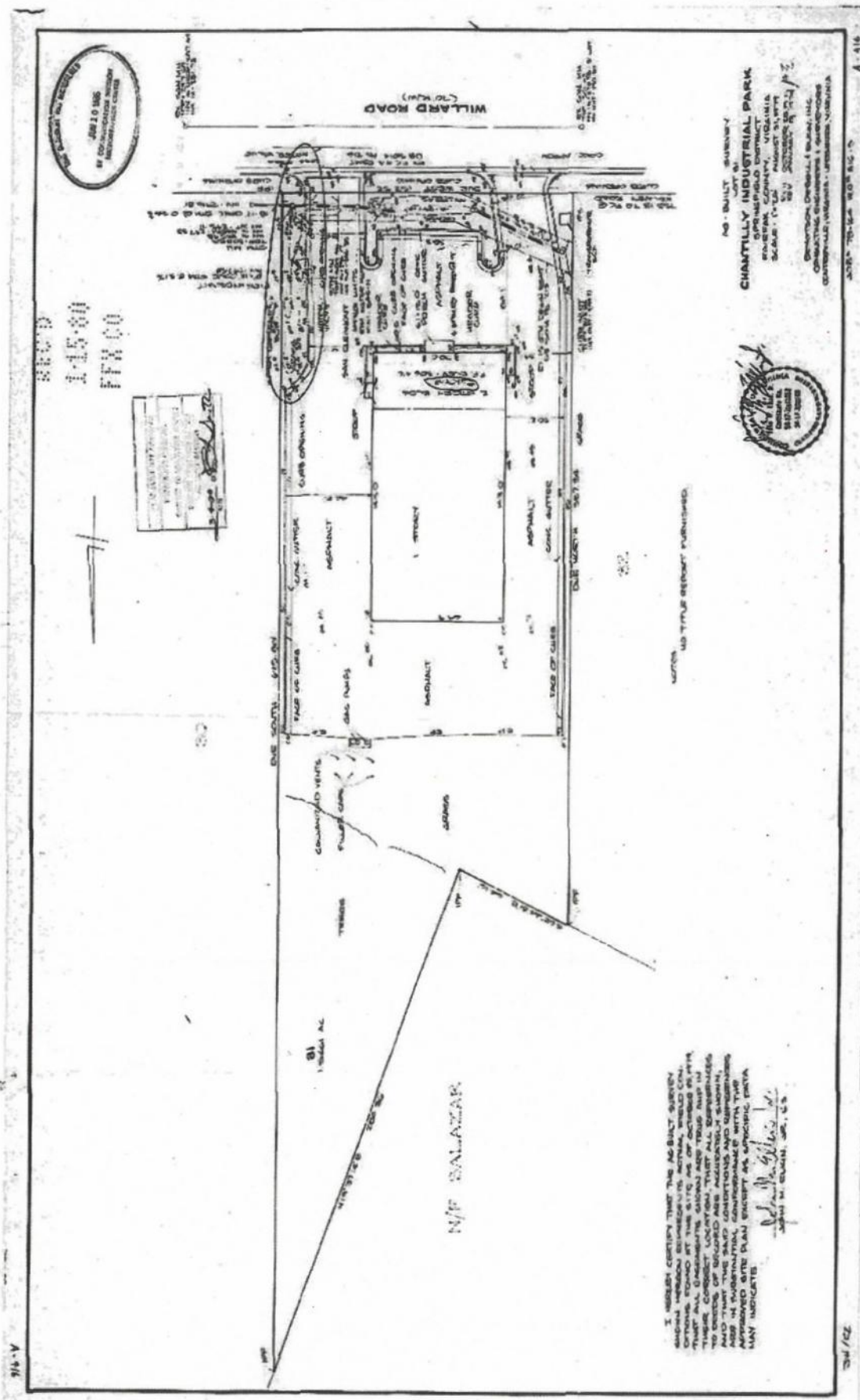
No Residential or Non-Residential Use Permit shall be deemed to validate any violation of any provisions of any law or ordinance.

#### **PART 3 20-300 DEFINITIONS**

**STORAGE YARD:** The use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and/or farm machinery.

**VEHICLE MAJOR SERVICE ESTABLISHMENT:** Buildings and premises wherein major mechanical and body work, repair of transmissions and differentials, straightening of body parts, painting, welding or other similar work is performed on vehicles. Vehicle light service establishments may be permitted as an ancillary use, however, vehicle major service establishments shall not be deemed to include **HEAVY EQUIPMENT AND SPECIALIZED VEHICLE SALE, RENTAL AND SERVICE ESTABLISHMENTS.**









Fairfax Circuit Court - CPAN Cover Sheet v2.0

10/28/2014

## Fairfax County Land Records Cover Sheet

**Instruments**

DEED

**Grantor(s)**

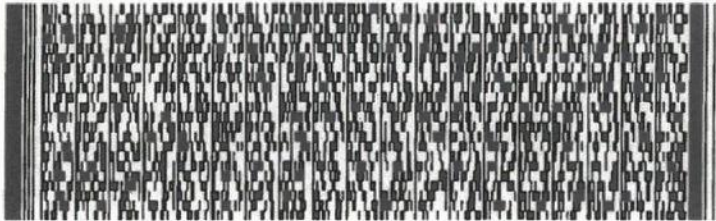
FOLEY,LOIS S\_I\_N, FOLEY,WILLIAM F\_I\_N, FOLEY,DAVID L\_I\_N, REED,MARK N TR\_I\_T

**Grantee(s)**

FOLEY,LOIS S\_I\_N, FOLEY,WILLIAM F\_I\_N, FOLEY,DAVID L\_I\_N

Box 236

Consideration		Consideration %	100
Tax Exemption	\$11	Amount Not Taxed	
DEM Number		Tax Map Number	044-2- -08- -0031-
Original Book	11097	Original Page	1691
Title Company	BITNER & BITNER LTD BOX 37	Title Case	RE14654
Property Descr.	CHANTILLY INDUSTRIAL PARK LOT 31		
Certified	No	Copies	0
		Page Range	

[Print Cover Sheet](#)

Return to: Bitner & Bitner Ltd  
Grantees' Mailing Address: 819 Ruffner's Ferry Road  
Luray, VA 22835

Tax Map No. 0442 08 0031

*This deed is exempt from the recording taxes imposed by Virginia Code Sections 58.1-801 and 802 as a deed from an executor to beneficiaries of an estate/trust pursuant to Virginia Code Sections 58.1-811A(13) & C(1)*

*This instrument has been prepared by Mark N. Reed, Attorney at Law (VSB #23251)  
VA §17.1-223 Notice : None*

## **DEED**

THIS DEED, made and entered into this 24<sup>th</sup> day of October, 2014, by and between **LOIS S. FOLEY, as EXECUTRIX OF THE ESTATE OF WILLIAM E. FOLEY**, deceased GRANTOR/PARTY OF THE FIRST PART; and **LOIS S. FOLEY, WILLIAM F. FOLEY, and DAVID L. FOLEY**, as joint tenants with right of survivorship, GRANTEES/PARTY OF THE SECOND PART, whose mailing address is 819 Ruffner's Ferry Road, Luray, VA 22835; and **LOIS S. FOLEY, WILLIAM F. FOLEY, and DAVID L. FOLEY** in their individual capacity, and **MARK N. REED, as the named Trustee of the Testamentary Trust created in the Last Will and Testament of William E. Foley dated September 21, 1999 as amended by a Codicil dated June 17, 2002**, GRANTORS/PARTY OF THE THIRD PART.

### **WITNESSETH:**

In consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, at and upon the signing, sealing, and delivery of this instrument, the Party of the First Part does hereby grant and convey with SPECIAL WARRANTY OF TITLE unto **LOIS S. FOLEY, WILLIAM F. FOLEY, and DAVID L. FOLEY**, as joint tenants with full right of survivorship as at common law and not as tenants in common, all that certain tract or parcel of land containing 1.5661 acres, more or less, with all improvements thereon and all rights, easements, and appurtenances thereunto belonging, lying and being situate in the County of Fairfax, Virginia, with a street address of 14008 Willard

LAW OFFICES  
REED & REED, P.C.  
LURAY, VIRGINIA

144-2-08-0031



Road, Chantilly, Virginia 20151, and being more particularly described as "Lot THIRTY ONE (31) CHANTILLY INDUSTRIAL PARK, as the same appears duly dedicated, platted and recorded among the Fairfax County, Virginia land records in Deed Book 4046 at page 522," and being the same real estate that was conveyed by William E. Foley by deed dated September 21, 1999 from William E. Foley and Lois S. Foley, husband and wife, which deed is of record in the Clerk's Office of the Circuit Court of Fairfax County, Virginia in Deed Book 11097 at page 1691, reference to which deeds and plat is hereby made. William E. Foley subsequently died testate on February 22, 2014 seised and possessed of the aforesaid real estate. In his Last Will and Testament, which was duly probated in the Clerk's Office of the Circuit Court of Page County, Virginia in Will Instrument No. 20140000081 and in the Clerk's Office of the Circuit Court of Fairfax County, Virginia in Will Book 1008 at page 1119, he appointed his wife, Lois S. Foley, as his executrix with full power to transfer and convey real estate belonging to his Estate. Lois S. Foley subsequently qualified as the Executrix of his Estate on March 11, 2014. Reference is further made to that order of the Circuit Court of Page County, Virginia in the case styled *Petition to Terminate the Testamentary Trust created by the Last Will and Testament of William E. Foley dated September 21, 1999 as Amended by a Codicil thereto dated June 17, 2002* - Case Number: CWF-14-35, wherein the Court terminated the testamentary trust created in William E. Foley's Last Will and Testament and directed that the assets payable to the Trust be distributed to the Trust's beneficiaries, they being the Grantees herein.

This conveyance is made SUBJECT to all easements, conditions, and restrictions of record, if any, insofar as they may lawfully affect the property.

The Party of the Third Part join in this deed for the sole purpose of evidencing their agreement and consent to the foregoing conveyance.

LAW OFFICES  
REED & REED, P.C.  
LURAY, VIRGINIA

WITNESS the following signatures and seals.

Lois S. Foley (SEAL)  
LOIS S. FOLEY, as Executrix of the ESTATE OF  
WILLIAM E. FOLEY, deceased

Lois S. Foley (SEAL)  
LOIS S. FOLEY, in her personal capacity

William F. Foley (SEAL)  
WILLIAM F. FOLEY

David L. Foley (SEAL)  
DAVID L. FOLEY

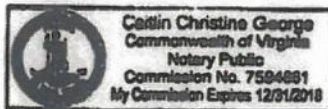
Mark N. Reed (SEAL)  
MARK N. REED, as the named Trustee in the Testamentary  
Trust created in the Last Will and Testament dated  
September 21, 1999 as amended by a Codicil dated June 17, 2002

COMMONWEALTH OF VIRGINIA  
COUNTY OF PAGE, TO-WIT:

The foregoing instrument was acknowledged before me this 24 day of October,  
2014 by LOIS S. FOLEY as Executrix of the Estate of William E. Foley, deceased, and in her  
own right.

My commission expires: December 31, 2018

My registration number is: 7594861



Caitlin Christine George  
Notary Public

LAW OFFICES  
REED & REED, P.C.  
LURAY, VIRGINIA



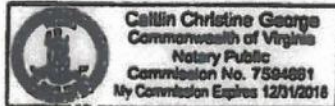
COMMONWEALTH OF VIRGINIA

COUNTY/CITY OF PAGE, TO-WIT:

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of October, 2014 by WILLIAM F. FOLEY.

My commission expires: December 31, 2018

My registration number is: 7594861



Caitlin Christine George  
Notary Public

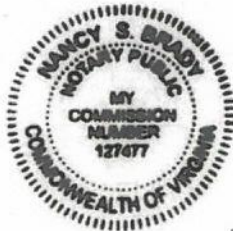
COMMONWEALTH OF VIRGINIA

COUNTY/CITY OF FAIRFAX, TO-WIT:

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of October, 2014 by DAVID L. FOLEY.

My commission expires: July 31, 2018

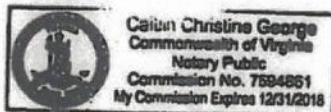
My registration number is: 127477



Nancy S. Brady  
Notary Public

COMMONWEALTH OF VIRGINIA  
COUNTY OF PAGE, TO-WIT:

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of October, 2014,  
by MARK N. REED as the named Trustee in the Testamentary Trust created in the Last Will and  
Testament dated September 21, 1999 as amended by a Codicil dated June 17, 2002.



*Caitlin Christine George*  
Notary Public

*This deed was prepared without the benefit of a title examination.*

LAW OFFICES  
REED & REED, P.C.  
LURAY, VIRGINIA

10/29/2014  
RECORDED PAGE 5 OF 5  
FILED  
CLERK



ATTACHEMENT 5









